

REMARKS

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1, 2, 4, 6, 9-12, 14-20, 26-33, 35-43, 57, 58, 60-63, 65, 68-70, and 72-77 are pending, with Claims 1, 2, 4, 6, 9-12, 14-20, 27-33, and 35-42 withdrawn from consideration.

Amendment to the Claims

Claims 26, 43, 57, 58, 60-63, 65, 68-70, and 72-77 have been examined with no claims being allowed. Claim 26 has been amended to clarify that the surface area referred to therein is the *entire* surface area of the respective bottom and top surfaces of the upper and lower layers, as described at page 13, lines 11-12, of the specification. Claims 43 and 65 have been amended to clarify that the discontinuity referred to therein is in the form of a plurality of separate pieces of the lower layer, as described at page 13, lines 11-15, of the specification. No new matter has been added by this Amendment.

No additional fee is due for this Amendment because the number of independent claims remains unchanged and the total number of claims also remains unchanged.

Claim Rejections - 35 U.S.C. §102

The rejection of Claims 26, 43, 57-58, 60-63, 68, 70, and 72-77 under 35 U.S.C. §102(b) as being anticipated by Everett et al. (PCT Publication No. WO 99/17695, hereinafter "Everett") is respectfully traversed, particularly in view of the above Amendment and the following remarks.

Everett discloses a multi-layer absorbent core. Everett does not disclose each and every element or limitation of Applicants' independent Claims 26 or 43.

Applicants' invention as recited in independent Claim 26 requires the upper layer to have a surface area greater than a surface area of the lower layer.

Although the previous amendment adding this limitation to Claim 26 seemed unambiguous to Applicants, Applicants have further amended Claim 26 to clarify that these surface areas refer to the *entire* surfaces of the respective layers.

Applicants note that, despite the Examiner's insistence on page 4 of the current Office Action that Applicants had not defined the surface area relative to the claims, and suggesting that the broadest reasonable interpretation of this limitation would include "any portion of the bottom surface of the upper layer as a surface area, which can be larger than any portion of the top surface of the lower layer," the Examiner, nevertheless, apparently did not consider this limitation to have such a broad scope, even as previously recited, since the Examiner stated on page 8 of the Office Action mailed 01 December 2004: **"Everett does not disclose the upper layer has a bottom surface area greater than a surface area of the top surface of the lower layer."**

In accordance with the Examiner's earlier statement, Applicants concur that Everett fails to disclose an upper layer having an entire bottom surface area that is greater than an entire surface area of a top surface of a lower layer. Instead, Everett discloses that the upper layer is either the same size or *smaller* than the lower layer.

Applicants' independent Claim 43 previously required a "discontinuous" lower layer, but has been amended herein to clarify that the lower layer comprises a plurality of separate pieces placed in desired locations of the absorbent assembly.

Applicants note that, despite the Examiner's insistence on page 6 of the current Office Action that Applicants had not defined "discontinuous" with respect to the claimed structure, and suggesting that the broadest reasonable interpretation of this limitation would include "the T-shaped lower layer [being] discontinuous with respect to a equidistant with (sic)," the Examiner, nevertheless, apparently did not consider this limitation to have such a broad scope, even as previously recited, since the Examiner stated on page 9 of the Office Action mailed 01 December 2004: **"Everett does not disclose the lower layer is discontinuous."** Additionally, Claim

65 also recites this “discontinuous” limitation and the Examiner has made the same statement on page 9 of the current Office Action.

In accordance with the Examiner’s earlier statement as well as the Examiner’s present statement with respect to the rejection over Claim 65 below, Applicants concur that Everett fails to disclose a discontinuous lower layer, namely a lower layer that comprises a plurality of separate pieces placed in desired locations of the absorbent assembly.

For at least the reasons presented above, Applicants respectfully submit that Claims 26 and 43 are not anticipated by Everett. Because Claims 57-58, 60-63, and 68 depend from Claim 26, and Claims 70 and 72-77 depend from Claim 43, these claims are also not anticipated by Everett. Thus, Applicants respectfully request withdrawal of this rejection.

Claim Rejections - 35 U.S.C. §103

The rejection of Claim 65 under 35 U.S.C. §103(a) as being unpatentable over Everett in view of Burgeni (U.S. Patent No. 3,494,362) is respectfully traversed.

Burgeni discloses an absorbent pad having a corrugated insert. The corrugated insert is not “discontinuous” in the sense of including a plurality of separate pieces, as recited in amended Claim 65.

As explained at page 13, lines 12-15, of the present application, the lower layer can be cut into several pieces and placed in areas most in need of high absorption capacity, thereby minimizing bulk thickness in areas in which high absorption capacity is not needed. Neither Burgeni nor Everett suggest an absorbent layer in the form of multiple pieces, nor do either of these references suggest any other arrangement to minimize bulk thickness in select areas. Thus, there is no motivation to modify or combine either of these references to achieve a multi-part lower layer.

For at least the reasons given above, Applicants respectfully submit that the teachings of Everett in view of Burgeni fail to disclose or suggest Applicants’

claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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